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The Development of the  
Idea of Negro Suffrage

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The Development of the Idea of Negro Suffrage.

By

Oscar J. Putting.

Thesis for the degree of Bachelor of Arts

in the

College of Literature and Arts

of the

University of Illinois.

May, 1906.





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Oscar J. Putting

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The Development of the Idea of  
Negro Suffrage.

IS APPROVED BY ME AS FULFILLING THIS PART OF THE REQUIREMENTS FOR THE DEGREE

OF

Bachelor of Arts in the Political  
Science Group, Evans P. Greene  
History

HEAD OF DEPARTMENT OF

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## Before the Beginning of The Abolition Movement.

It is especially interesting to notice the status of the negro in the early history of this nation, - when as yet he was of neither great commercial nor social importance to our forefathers, - and then to follow, as well as historical records will permit, those tendencies which finally ended constitutionally in the Fifteenth Amendment. This, in brief, is the line of interest which shall here be followed.

During the first half of the eighteenth century even some of the southern States which in later history so stubbornly opposed the movement for Colored Rights, then permitted the negro to vote. On the other hand, there were States which during their early history denied this privilege to the colored man, and yet in later periods supported what finally became a general movement to enfranchise the negro. Thus a division of opinion prevailed among the States in colonial times.

There were political reasons why the colonies were at variance. They were politically separate and independent until they were united; and even then the doctrine of State's rights did much to keep up State individualism. Later, suffrage as a national question grew out of a sectional struggle. This explains why the negro status became more definite than formerly.

In the latter part of the seventeenth century, suffrage was very much limited. Virginia, for example, allowed none but "free-



holders and housekeepers" the right to vote. At that time there were white indentured servants, little better than slaves. They were bound to serve for a certain term of years at the expiration of which term they received their liberty. They were commonly called "white trash". Because of their little interest in the country's welfare it was deemed best to have a property qualification for voting. Thus, during this early time the political power<sup>1</sup> of even the white landless was curtailed in Virginia.

A question which naturally comes to mind is, whether a negro was permitted to vote in those early times when he was free and had sufficient property to meet the freehold requirement. We are told that as early as 1701 and 1803 this very question was brought up in South Carolina. There, as in Virginia, the possession of a freehold was necessary before the right to vote could be exercised. Now complaints came in from Berkeley County that "free negroes were received and taken for as good electors as the best freeholders in the province". In 1704, when a certain amount of property was similarly made a requirement for voting in North Carolina, much the same political circumstances surrounding the negro prevailed. Hence it may be seen that while there were suffrage restrictions, the colored man, if he was a freeholder, often exercised the privilege as if the matter of color or race was no distinction either for or against the right.

There was little reason for concern over the status of the negro race before 1700. In 1671 there were only 2000 colored

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1. Congressional Globe: Speech of C. C. Bowen January 28, 1869.





slaves as against 40,000 whites in Virginia. By 1750 negro slaves  
constituted about half the total population.<sup>1.</sup> What was true of this  
State in this connection was true in the southern Colonies generally.

In 1705 Virginia had an act forbidding negroes, mulattoes,  
and Indians from holding office. It is said that in the northern  
Colonies no law was known which would prevent an Indian or negro  
from voting if he was other wise qualified.<sup>2.</sup> In 1715 the Manuscript  
Revisal of the laws in North Carolina set forth that "no negroes,  
mulattoes, or Indians shall be capable of voting for members of the  
assembly"; and in 1716 a law was passed with the word "white" in-  
serted. In 1723, Virginia, which by legislation had done no more  
than bar negroes from holding office, for the first time in its  
history disfranchised the race. Thus North Carolina and Virginia  
were earliest in doing what later became more or less common among  
the Colonies.

However, North Carolina repealed the acts of 1715 and 1716  
in 1734. In 1743 a new act was passed givin suffrage to all free  
men. While this act was finally repealed in 1760, with property  
qualifications continuing as the essential feature of the require-  
ments for eligibility, the negro in theory nevertheless had the  
right to vote.<sup>3.</sup>

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1. Dr. E. B. Green's Lectures, U. of I., 1903-4.
2. C. F. Bishop: History of Elections in the American Colonies.
3. Political Science Quarterly Vol. IX pp. 671-704.



On the other hand, Georgia in 1761 brought about legislation abolishing the negro's voting privilege. In 1762 Virginia passed another act disfranchising negroes, mulattoes, and Indians even though they were freeholders. While this act together with the one of 1723 did not appear in the later Revised Statutes of 1766, it is certain that the law was enforced for several years. The general trend of legislation in those States at that time was decidedly unfavorable to the African.

In 1766 such a thing as white manhood suffrage was recognized in none of the thirteen States. It is true that North Carolina, Georgia, Florida and other southern States had not arrived at universal suffrage even for the white man by 1860. Yet, after the adoption of the United States Constitution the tendency was rather to extend the voting privilege.

During a period of years after 1790 many of the State Constitutions were entirely silent upon the matter of negro suffrage; and yet the Courts would find in the written language of these instruments words and phrases to warrant a decision against the universality of the voting privilege. In the Pennsylvania Constitution, for example, there was no direct language either favoring or opposing the negro's right to vote. Consequently the question came before the highest tribunal of the State, where it was decided that the Constitution, when properly interpreted, never permitted negro suffrage. Other States had this same experience.

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1. Congressional Globe: Speech of G. W. Woodward February 20, 1869.





This trouble soon persuaded some States to change the language of their laws either clearly granting or denying colored enfranchisement. Accordingly, Delaware introduced a color qualification in the year 1792. On the other hand, Tennessee (1796) gave the ballot right to all freeholders; while Kentucky, several years later, barred all but white men from voting. In 1820 New Jersey changed its election laws, disqualifying colored men; and the next year, (1821) New York which had begun its legislative discrimination in 1811 increased the requirements of negroes for voting<sup>1</sup>. Thus while there were tendencies in favor of colored men in some places, the general trend since 1792 was decidedly the other way.

All that has been said may convey some idea as to what the general sentiment during the early history of the Nation. As yet there had been no general movement throughout the country for negro enfranchisement. Therefore we have been obliged to take the conditions piecemeal as we have found them and thus observe the early history of negro suffrage.

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1. F. W. Thorpe: Constitutional History of the American People, Vol. I, pp. 360 to 399.  
Political Science Quarterly, Vol. IX, pp. 671-704.



## II From the Beginning of the Abolition Movement.

From about 1830 on, there began to develop a number of anti-slavery activities which became more or less organized as the years went by. Special organizations like the "Anti-Slavery Society" sprang up. It may be called to mind that in 1829 Benjamin Lundy started his paper called the "Genius of Universal Emancipation". In 1831 the famous "Liberator" was started by Garrison. These were not agitations for negro suffrage, but they started a movement which brought that result.

As questions regarding the negro status became national in character, the different sections of the country began to show their attitude toward the negro problem more definitely. However, their ideas regarding negro suffrage were not yet clear. Before anything like equal human rights could be successfully demanded, it was necessary that the shackles of slavery first be taken away. Until such was accomplished few really desired negro enfranchisement. This explains the early idea regarding the later suffrage.

Virginia, who still had a property and tax qualification in her election laws, slightly reduced the property requirements in 1830. Thus the suffrage right was extended. However, the right of ballot was still restricted to the "white male citizens of the commonwealth". Delaware, who already had laws barring the colored man from the polls, strengthened the restrictions a little in 1831. In Tennessee, where the freehold negroes had enjoyed the privilege of ballot during nearly all the State's previous





history, a clause was placed in the Constitution restricting the right of franchise to white men. Thus the opposition to universal suffrage seemed to progress.<sup>1.</sup>

However, it must be admitted that these discriminatory laws were not always strictly enforced. State versus Mannel, a case which came up in North Carolina, might well illustrate this. Some negroes had served faithfully in the revolutionary war, had taken oaths of allegiance, were freeholders and taxpayers, and had proved themselves honorable citizens. Upon the strength of some or all of these things a few were permitted to vote. By 1835 so many exercised the privilege that the county clerks failed to distinguish between white and black polls in making their returns. It is true that there were Counties in which negroes never voted. Yet in some localities they polled from 75 to 300 votes. This number being large enough to contain the balance of power in close elections, it was deemed expedient to contest the negro's voting right. Thus the question of disfranchising came up. But Judge Gaston decided in this case, that the negro could not be barred from voting. Regardless of such legislation as had been enacted, there was sufficient evidence to show that no discrimination had generally been made against color. So common had the toleration of negro suffrage become, notwithstanding statute laws.

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1. F. N. Thorpe: Constitutional History of the American People  
Vol. I, pp 360-99.



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More legislation followed in North Carolina (1835).

Pennsylvania in 1837, after cases of dispute over colored enfranchisement, once more changed its Constitution. Effort was made to accurately define the qualification of Electors; and the word "white" was inserted before "freeborn". The amendment was not merely the expression of the constitutional convention, but with other amendments it had been submitted to the vote of the people

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in that State. New Jersey once more strengthened her restrictions

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against the black vote. All these occurrences mark increased legislative effort against colored enfranchisement.

In nearly all the New England States, where the laws still showed no express disfranchisement of colored men, reliance continued to be placed on the Courts. They held that negroes were not citizens within the meaning of section 2, Article IV of the Federal Constitution. Such a decision was handed down by Chief Justice Doggett of Connecticut in regard to "slaves, free blacks, and Indians". We are told that similar proceedings were common in Rhode Island. Thus the Judiciary, as previously shown, continued to support the will of the people.

In the North-West Territory the matter of negro suffrage had never commanded exciting interest. Perhaps Article VI of the

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1. Congressional Globe: Speech by Mr. Julian January 16, 1866.

Article by Weeks in Political Science Quarterly Vol.9, pp 671-704

2. Congressional Globe: Speech by G. W. Woodward, February 20, 1869.

3. Congressional Globe: Speech by Mr. Julian, January 16, 1866.





Ordinance of 1783 providing that "there shall be neither slavery nor involuntary servitude except in punishment of crimes" etc., discouraged the importation of enough negroes from other States to make negro servitude a problem. Then too, something of the natural conditions which developed a large colored population in the southern States failed to exist in this Territory. This may partly account for the negro status here.

However, when Congress passed an act enabling the people of Illinois to form a state Constitution, (April 18, 1818) it was careful to say in section 3 of said act, "That all white male citizens of the United States -----" shall have a right to vote. This tone was followed out in the first Constitution of 1818. Although section 1, Article VI of this instrument provided that "neither slavery nor involuntary servitude shall hereafter be introduced", section 27 of Article II provided that "In all elections, all white male citizens" shall have the right to vote. Then, coming back into the period we were formerly considering, we find that in 1848, when a new constitution was adopted by this State, the word "white" still remained as an important feature of the qualification clause in the Constitution. This was the attitude of Illinois up to this time.

During this time Lincoln was a member of the United States House of Representatives. In 1849 he introduced a bill providing that slavery be abolished in the District of Columbia. This shows ----- 0000 -----

1. See U. S. Statutes at Large, Vol. III, p. 428.
2. Illinois Revised Statutes, 1903, p. 28.
3. See Article VI, Section I, of the Constitution of 1848, Illinois Revised Statutes, 1903, P. 46.



his view to be much in accord with his State's Constitution of 1846.

The Georgia code of 1851 not only denied negroes the voting privilege, but forbade emancipation. No free negroes were allowed to come within the State boundaries; and all free negroes that were already there were required to be registered annually. The clerks had power to refuse certificates of registration to these people at any time. The laws here were very strict.

In the years 1857 and 1858, two New England States took a definite stand against negro voting. New Hampshire in 1857 followed by Vermont the next year, passed laws excluding negroes from the ballot.<sup>1</sup>

There had been an agitation for disfranchising colored voters in New York. It will be recalled that some previous legislation had been carried on in that State; and one effort to amend the suffrage clauses of the State Constitution had already been made (1846). In 1860 the matter of amending the Constitution was again submitted to the people, and again the idea of thus disfranchising the negro was rejected.

From the beginning of negro suffrage in the United States up to this time the observations are only at random, and even then more or less fragmentary. There was no national movement, either directly or indirectly that enabled us to follow one enlarged tendency. Yet such as has been told may suggest the situation at various intervals up to this time.

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1. Political Science Quarterly, Vol. IX, pp. 671-704.



### III Emancipation.

The important later history of this subject lies in the Thirteenth, Fourteenth, and Fifteenth Amendments. It is said that the victory of the Federal armies brought on the proclamation of emancipation as the first step. Then personal liberty was later guaranteed by the Thirteenth Amendment. Thus, the first great barrier to the ultimate attainment was removed. This explains the importance of the last three Constitutional amendments.

Much of the history of the Thirteenth Amendment lies in the story of the Emancipation Proclamation. Yet limited space forbids that we consider the subject of liberation at any length.

Lincoln had early <sup>1</sup> shown opposition to slavery; yet when he became President he promised not to disregard the pro-slavery inter-<sup>2</sup>ests. Even Congress passed resolutions as a guarantee that the war<sup>3</sup> would be prosecuted only to defend constitutional rights.

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1. Nicolay and Hay: Lincoln, Vol. II pp 143-4.
  2. Nicolay and Hay: Lincoln, Vol. III pp 327-40.
  3. Congressional Globe: Resolution on purpose of the War passed in House, July 22, 1861.
- Congressional Globe: Resolution on purpose of the War passed in the Senate, July 24, 1861.
- McPherson: History of the Rebellion, pp 235-90.
- House Journal, 27th Congress, 1st session, p 123.
- Annual Cyclopedia for 1862, p 295.





However, there were complications which made a direct<sup>1</sup> consideration of certain phases of slavery a necessity. The slave holders of the South used many slaves for war purposes. The North<sup>2</sup> overcame this by a Confiscation Act. This was a beginning for<sup>3</sup> emancipation.

Later, the idea of compensated emancipation was given much thought. On April 10, 1862, Congress passed a resolution offering to co-operate with any State that desired a gradual abolition of<sup>4</sup> slavery. The same month and year, April 16, 1862, a bill was passed "for the release of certain persons held to service or labor in the<sup>5</sup> District of Columbia". These measures of liberation were all on the plan of compensated emancipation.

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1. Dunning: Essays on the Civil War and Reconstruction, p 28.
2. House and Senate Journals 37th Congress 1st Session.  
U. S. Statutes at Large Vol. XII p 319.
3. MacDonald: Select Statutes of U. S. History 1861-98, p 21-note.  
Rhodes: U. S. History Vol. III p 465, Note 2.  
Nicolay and Hay: Lincoln Vol. IV p 389.
4. Congressional Globe: Lincoln's Message March 6, 1862.  
McPherson: Rebellion p 209, also 213-220.  
Nicolay and Hay: Lincoln Vol. V chap. 12.  
Rhodes: U. S. History Vol. III pp 630-636.  
U. S. Statutes at Large Vol. XII p 617.
5. U. S. Statutes at Large Vol XII pp 376-378.  
MacDonald: Select Statutes of U. S. History 1861-98 -34 note.  
Congressional Globe: Annual Message of Lincoln December 1, 1862  
W. H. Smith: A Political History of Slavery Vol. II.



The next place where Congress naturally would be expected to exercise the right of emancipation is in the Territories. This is exactly what happened.<sup>1</sup> When West Virginia was admitted to the Union,<sup>2</sup> another opportunity arose for extending the anti-slavery policy. However, emancipation here was applied in a somewhat modified form.<sup>3</sup> Soon after, in the face of declarations that the President did not have the power,<sup>4</sup> Mr. Lincoln, as commander-in-chief of the army and navy,<sup>5</sup> executed the famous Emancipation Proclamation. This was the last important act of liberation before the Thirteenth Amendment.

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1. U. S. Statutes at Large Vol XII p 432.
2. December 31, 1862.
3. U. S. Statutes at Large Vol. XII p 633, 634.
4. Congressional Globe: Speech by Mr. Hulburd March 12, 1864.  
7 Howard Reports pp 43-44.  
See Article I section 8, U. S. Constitution.
5. Sherman: Recollections Vol. I Chap. 14.  
Nicolay and Hay: Lincoln Vol VI Chaps 8, 9, 6.  
Rhodes: U. S. History Vol. IV pp 68-75; 212-213; 157-163.  
G. F. Adams: Adams.  
Morse: Lincoln Vol. II chaps 1, 2.  
McCall: Stevens Chapter XII.  
Dunning: Essays on Civil war and Reconstruction pp 49-55.  
Hart: Chase Chapter X.  
MacDonald: Select Statutes of U. S. History 1861-68 - 39.  
Congressional Globe: Speech by Shannon June 14, 1864.  
Congressional Globe: Speech by Wilson January 22, 1865.





It may be well to notice what was the attitude of Congress toward suffrage as a feature of reconstruction at about this time. A bill on the restoration of the "States" had been passed. According to section 4 of the bill only such delegates as were elected by the "loyal white male citizens of the United States" were to be considered as qualified for a seat in the Conventions. This was the position of Congress.<sup>1</sup>  
<sup>2</sup>

While Lincoln did seem to show approval of "white" male suffrage by his proclamation in support of the above bill, there is evidence that his ideas on suffrage were less restricted. In writing to Michael Fahn, the newly elected governor of Louisiana, Mr. Lincoln said: "Now you are about to have a convention, which, among other things, will probably define the elective franchise. I barely suggest for your private consideration, whether some of the colored people may not be let in - as, for instance, the very intelligent, and especially those who have fought gallantly in our ranks. They would probably help, in some trying time to come, to keep the jewel of liberty within the family of freedom". This shows Lincoln's idea regarding negro suffrage at this time.<sup>3</sup>

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1. U. S. Statutes at Large Vol XIII, Appendix XIV-XVII.
2. Cox: Three Decades Chap. 17.
- Nicolay and Hay: Lincoln Vol. IX Chap. 5.
3. Rhodes: History of United States Vol. IV p 485.



There were even southern thinkers who favored restricted negro suffrage. Mallory who had been the Confederate Secretary of the Navy during the whole war wrote to Senator Chandler, "I know many negroes whom I would trust with the ballot and the number will steadily increase and they must at no distant day become voters under certain qualifications." General Lee said that if it should be plain to the State of Virginia that the negroes would vote "properly and understandingly she might admit them to vote". Even Alexander H. Stevens, who so strongly denounced the Abolitionists, said, "Individually, I should not be opposed to a proper system of restricted or limited suffrage" for the negroes. Although universal freedom was not yet accomplished the idea of negro suffrage was<sup>1</sup> already in evidence.

One step remained before the negro began to appear in the status of a free man. This awaited to be accomplished by the Thirteenth Amendment. The Abolitionists felt that liberation was yet incomplete; while others insisted that Congress and the

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1. Rhodes: History of United States Vol. V, pp 562-563.



Executive adhere to their former promises. The natural rights of a human being as well as the negro's ability were used as arguments in his favor. Then too, his services in the war made many feel grateful to him. The question of State's rights often caused perplexity in course of debate on abolition. Still, after much strong contention, the Thirteenth Amendment was passed.

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1. Congressional Globe: Speech by W. A. Richardson December 8, 1862  
: Speech by Henry Grider January 7, 1863.  
: Speech by Mr. Kalbflesh June 14, 1864.  
Cox: Three Decades p. 340.  
Congressional Globe: Speech by Mr. Herrick March 26, 1864.  
: Speech by Mr. Rogers January 11, 1866.  
: Speech by Charles Sumner April 4, 1864.  
: Speech by Shellabarger January 27, 1862.  
: Speech by Senator Morrill January 6, 1866  
: Speech by Henderson April 7, 1864.  
: Speech by Coffroth June 14, 1864.  
Sumner's works Vol. XIII p 158.
2. Congressional Globe: Speech by Shellabarger January 27, 1863.  
: Speech by Allen February 2, 1863.  
: Lincoln's Message February 17, 1863.  
Nicolay and Hay: Lincoln Vol. VI p 440.
3. Congressional Globe: Speech by Mr. Herrick, March 26, 1864.  
: Speech by Mr. Davis March 4, 1864.  
: Speech by Mr. Fernando Wood June 14, 1864.  
Wilson: Rise and Fall of the Slave Power in America Vol. III,  
pp 661-678.  
Dunning: Essays on the Civil War and Reconstruction pp 55-60.





Thus Congress continued to extend emancipation. The Legislature kept pace with the Executive by assuming more power in its legislation. Meanwhile the Judiciary remained silently in the background, without much opportunity to enlarge its strength<sup>1</sup>. The efforts to maintain connection with the Constitution became more or less a legal fiction; and as the outcome of it all universal<sup>2</sup> emancipation was accomplished.

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1. Dunning: Essays on the Civil War and Reconstruction pp 55-60.
2. Revised Statutes of U. S.

McPherson: Rebellion pp 255-258.

MacDonald: Select Statutes of U. S. History ; 138, Note.



#### IV Early Reconstruction and the Negro Status.

While a large number of freedmen found a place in the Union army, many were necessarily dependent upon other resources. Yet their chances for employment outside of military service were so few that starvation pressed hard upon them. In course of time a very melancholy state of affairs developed. When the slaves were once liberated the master was no longer responsible for their maintenance. When he needed help he might employ them at a small sum equivalent to board and clothes. During slack seasons he was now able to discharge his servants; and he would not be under obligations to provide for them when they were not working. The result was that the Winter seasons immediately following emancipation were especially hard on the <sup>ex-</sup><sub>1</sub> slaves.

This trouble had been foreseen by some students of the negro problem. Indeed questions regarding the supply and demand of labor under the new status had been brought up in early arguments on abolition. One, Helper, who partly foresaw the situation, asked more than abolition. He declared that before the slave holders would be doing anything like justice to their slaves, they should be compelled to give every slave his liberty and sixty

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1. Congressional Globe: Speech by Mr. Herrick March 26, 1864.
2. Helper's Book, "The Impending Crisis" was denounced as insurrectionary by a resolution of Congress. See Nicolay and Hay: Lincoln Vol. II.





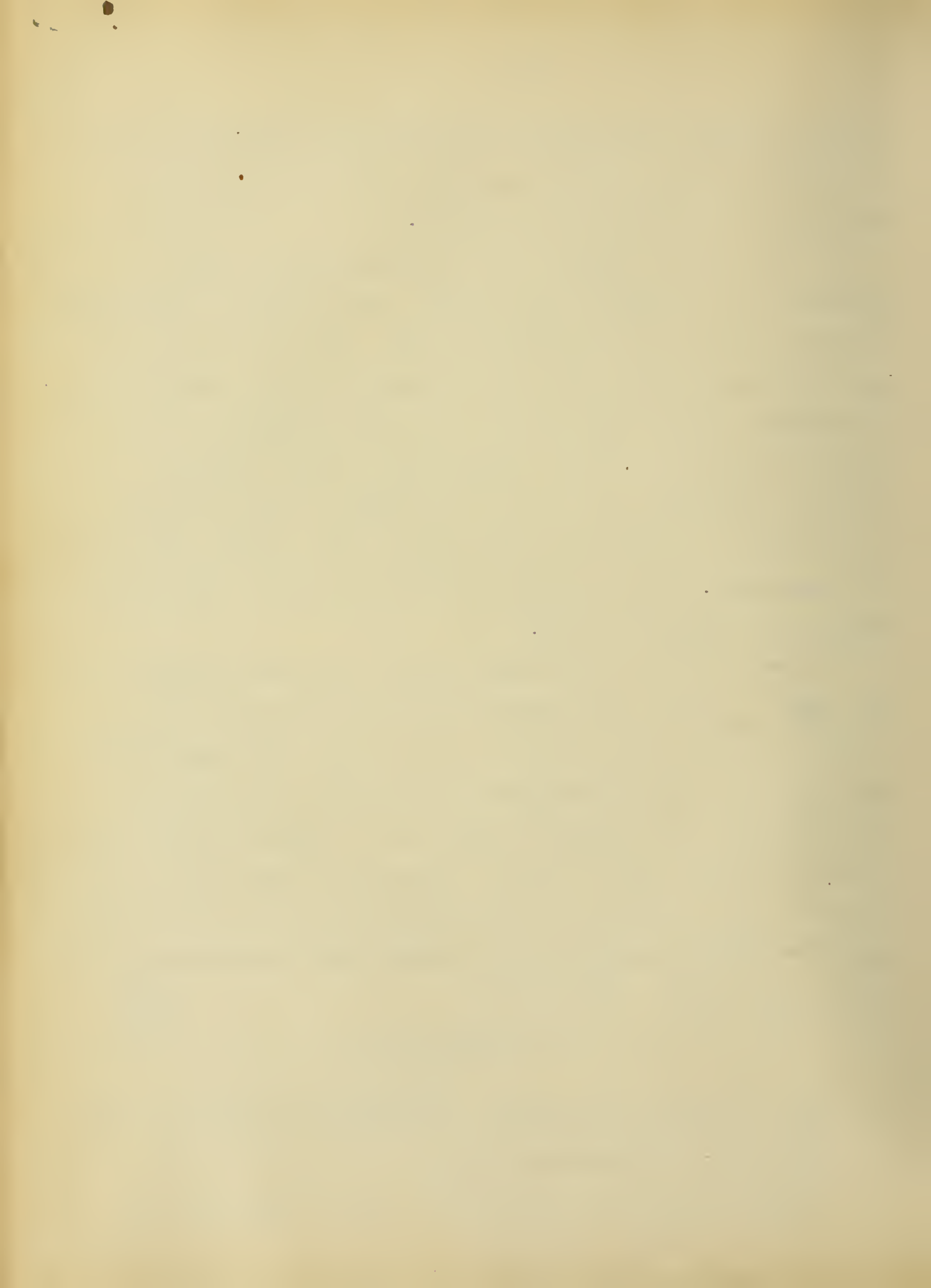
dollars in money. While many deemed this to be extremely radical, some declared that it would be wrong to throw the negro upon his own responsibility with less resources.

In spite of the efforts of numerous philanthropic societies and charitable organizations, great crowds of idle blacks followed the Union troops soliciting aid. The border States frequently complained over the influx of black paupers. Unless the Government wished to give up all that it had attempted in its policy of liberation it must immediately find some scheme by which the freedmen would not be thrown upon the mercy of their former masters. Unless some care was taken the blacks would soon be re-enslaved. Hence it became necessary to devise what finally<sup>1</sup> became the Freedman's Bureau.

"Why should the Government support the negro race?", it was asked. Formerly the Liberators declared the negro to be equal to the white man. Now they cry for aid. The Conservatives pointed to this as another case of abolitionist inconsistency. Since the negro has assumed the white man's freedom, let him take likewise the white man's burden. The numerous Indian tribes were forced to yield because they were of a weaker race. If the negro cannot flourish unaided in the new status, let him retrograde again<sup>2</sup> to the old status.

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1. Dunning: Essays on the Civil War and Reconstruction pp. 72-75.  
McPherson: Reconstruction p 78.
2. Congressional Globe: Speech by Mr. Knapp of Illinois  
March 1, 1864.



The ex-slave was now a freed-man. What did that imply? Could he become naturalized and subsequently enjoy all the privileges of a naturalized citizen? Was he to continue to be only three-fifths counted when the ratio regarding the basis of representation was fixed? Indeed why should he not be allowed to vote, if since his liberation he was a free man, a citizen? If he was not to be so regarded, what was the limit of his rights? All these questions required that the status of the negro be clearly understood.

In 1821, Attorney-General Wirt said, "No person is included in the description of citizen of the United States who has not the full rights of a citizen in the State or his residence."<sup>1</sup> Yet on the strength of the pre-emption act passed September 4, 1841 the clauses were later interpreted more in favor of the negro. The question as to the negro's right of pre-emption was referred to Attorney-General Legare for his opinion. On March 15, 1843 he said, "I have delayed giving an opinion on the subject because I was desirous of bestowing upon it deliberate consideration. The result is that I am of the opinion that a free man of color, a native of this country, may be admitted to the privileges of a pre-emptioner under the tenth section ----"<sup>2</sup> According to this theory the negro had all the privileges of a white man in pre-emption.

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1. Quoted in Dunning's Essays on the Civil War and Reconstruction. p 27.
  2. Opinion of Attorney General Vol. IV p 147.
- Congressional Globe: Speech by Wilson, March 1, 1861.



Again, the Government had upon various occasions naturalized, collectively, people who were outside the Federal classes. An example of this is the Act of March 3, 1843. It provided that "Stockbridge tribe of Indians, and each and every one of them shall<sup>1</sup> be deemed to be, citizens of the United States." Why could not a negro be similarly naturalized?

Kent states in his Commentaries that, "If a slave born in the United States be manumitted or otherwise lawfully discharged from bondage, or if a black man be born within the United States<sup>2</sup> and born free, he becomes thenceforward a citizen". Many people asked that the negro be fully counted for basis of representation on these grounds. However, other reasons were also given for this suggestion.<sup>3</sup> According to Charles Sumner a negro might be President of the United States. The spirit of the law as set forth in the Declaration of Independence and the Constitution of the United States, was in his mind enough to explain the negro's political rights.<sup>4</sup> Yet there was little certainty of the exact status of the negro.

<sup>5</sup>  
When the Civil Rights bill was passed some effort was

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1. Congressional Globe: Speech by Mr. Wilson March 1, 1866.
2. Kent's Commentaries Vol. II p. 257-Note- 4th Edition.  
Congressional Globe: Speech by Mr. Bingham January 25, 1866.
3. Congressional Globe: Speech by Mr. Blaine. January 23, 1866.
4. Sumner's Works, Vol. XVI pp 760-800.
5. March 27, 1866.





made to more clearly define the negro's position as a citizen. It stated, among other things, that "all persons born in the United States, and not subject to any foreign power, excluding Indians,<sup>1</sup> not taxed are hereby declared to be citizens of the United States." The numerous privileges granted to the negro by this bill also helped to explain the ex-slave's status.

The South passed laws in retaliation. Practically, these measures were attempts to re-enslave the negroes. The laws were enacted as applicable only to "freedmen, free negroes, and mulattoes"; and made the penalty for violation a fine. If the guilty was unable to pay his fine the sheriff might sell his labor to the highest bidder. Such was the nature of certain laws passed in many of the Southern States.<sup>2</sup>

This helped the Abolitionists to feel that the negro status was yet unsafe. The clamor for extension of the colored man's rights clearly showed the anxiety of the Abolitionists for what they had already accomplished. The agitators had even asked for negro suffrage in some cases, as will presently be shown; but until now the efforts had been directed toward uprooting slavery.

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1. U. S. Statutes at Large Vol. XIV pp 27-29.

Dunning: Essays on the Civil War and Reconstruction p 93.

2. Hart: History told by Contemporaries Vol. IV p 479.

Burgess: Reconstruction and the Constitution -- 46-54.



## V Suffrage Legislation.

As yet no direct legislation on suffrage had come about. Of course there were radicals who had often made the public statement that the negro should not only be free from slavery, but that he should have all the political rights that the white citizens of this country enjoy. Sumner was one of these men. He so often demanded things ahead of time that people discredited him as a tactful legislator.<sup>1</sup> "He required stipulations, the fulfillment of which could not really be ascertained", was the opinion of Mr. Blaine. It was natural that the Government should first bestow some of the very ordinary human rights upon the negroes before anything like the right of suffrage should be conferred. This is what primarily happened.

So earnest was Sumner for immediate negro enfranchisement that he became disgusted with the policy of the President and his Cabinet.<sup>2</sup> Mr. Kasson of Iowa, in a speech in the House of Representatives, January 15, 1866 said, "Mr. Lincoln's opinions are well known, that the intelligent negro and the fighting negro of the proper age, should be allowed to vote, the first for his intelligence, the second for his military service." Yet Sumner denounced the President so sharply that everybody expected a breach in their friendship. On August 11, 1865 Sumner wrote of

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1. Blaine: Twenty Years in Congress Vol. II p 114.

2. Congressional Globe.





Lincoln and his Cabinet, "The Attorney-General (Speed) is the best of the Cabinet; but they are all courtiers, unhappily, as if they were the counsellors of a king." This may show how vigorous Sumner was in agitating negro rights.

Perhaps Oliver P. Marton, in a speech at Richmond, Indiana,<sup>1</sup> expressed what was then a very prevalent opinion regarding the colored man's right of ballot. He declared, "that to say men just emerged from slavery are qualified for political power is to make the strongest pro-slavery argument I ever heard. It is to<sup>2</sup> pay the highest compliment to the institution of slavery." This was a very common sentiment.

Fessenden, a champion of colored rights, and Wilson, a colleague of Sumner, considered it wiser to persuade than oppose the President. — And Mr. Wilson was often bold in advocating his ideas. Thaddeus Stevens who was sometimes very radical in his petitions for negro privileges, and Mr. Wade who later introduced the bill for negro suffrage in the District of Columbia, thought opposition to the President was hopeless. All these men were forcible and earnest workers; yet they did not make themselves appear so unreasonable by demanding something for which conditions were not yet ready.

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1. September 29, 1865.
2. Political Science Quarterly Vol. IX -- 671-704.



We observe where on May 13, 1865 Mr. Sumner wrote the following letter to some North Carolina negroes regarding their political rights:

"Washington, May 13, 1865."

"Gentlemen,- I am glad that the colored citizens of North Carolina are ready to take part in the organization of the government. It is unquestionably their right and duty.

"I see little chance of peace or tranquillity in any Rebel State, unless the rights of all are recognized without distinction of color. On this foundation we must build.

"The article on Reconstruction to which you call my attention proceeds on the idea, born of slavery, that persons with a white skin are the only 'citizens'. This is a mistake.

"As you do me the honor to ask me the proper stand for you to make, I have no hesitation in replying that you must insist on all the rights and privileges of a citizen. They belong to you; they are yours; and whoever undertakes to rob you of them is a usurper and imposter.



"Of course you will take part in any primary meetings for political organization open to citizens generally, and will not miss any opportunity to show your loyalty and fidelity.

"Accept my best wishes, and believe me,  
Gentlemen,

faithfully yours, "

(signed)

<sup>1</sup>  
"Charles Sumner."

<sup>2</sup>

At Boston, in a speech on the assassination of Abraham Lincoln, Sumner said, "the argument for colored suffrage is overwhelming. It springs from the necessity of the case as well as from the rights of the man. This suffrage is needed for the security of the colored people, for the stability of the local government, and for the strength of the Union. Without this there is nothing but insecurity for the colored people, instability for the local government, and weakness for the Union involving

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1. Sumner's Works Vol. XLII p 310.
2. June 1, 1865.





On July 8, this same year, the colored people of Georgia solicited the aid of Mr. Sumner and forwarded a petition asking the right to vote. They requested that the petition be given the President. This, like many previous solicitations requesting lesser rights was presented in the most observient way.

Mr. Sumner used his efforts further in a Republican State Convention at Worcester, Massachusetts, September 14, 1865. Here he stated that "no rebel state can be re-admitted with this controversy still raging and ready to break forth." Confusion would inevitably continue. He declared that so long as the present relations between the two races prevails, business of all kinds will be uncertain, and the Country will be handed over to a fearful struggle with the terrors of San Domingo to darken its prospects.

A little later, that same year, he issued a circular letter. It had about the same tone as the quotations already given, only the thought was expressed at more length. The letter was circulated through the New York Independent of October 29, 1865.

On November 12, this same year, he sent from Boston to President Johnson a long dispatch, praying that he abandon his present policy of reconstruction. His reasons for opposing Johnson's policy were the same as those he had for opposing Lincoln's. Thaddeus Stevens who had thought it wise not to oppose Lincoln, stood beside Sumner in this request. On July 6, 1865 Stevens had written to Johnson, warning him that such a policy would destroy the party and injure the Country. Stevens and Sumner both demanded a more liberal scheme of reconstruction.



It is important that Johnson's policy be considered.

Johnson generally agreed with all the policies Lincoln had assumed. It is clear then, why Sumner denounced both. Owing to the fact, however, that Lincoln was of a more magnanimous nature than Johnson, the former kept on good terms with the Senator, while the latter soon became hostile.

Like Mr. Lincoln, Mr. Johnson favored limited negro suffrage. Governor Andrew, of Massachusetts, who favored a liberal amnesty, and urged that State reconstruction be left to the South's natural leaders, tried to persuade President Johnson to attend Harvard's Commencement in the summer of 1865. This effort having failed, an address drawn up by Professor Parsons of the Harvard Law School and signed by some 250 solid and influential citizens of Boston and vicinity was sent to the White House. It began by praising the President's general purpose. However, it was urged, (1) that all constitutions drawn up by those States lately in rebellion must be submitted to Congress when it met; (2) that equal negro suffrage seemed just in itself, while it certainly would be unjust to the Union to give two-fifths representation otherwise to the master race over three-fifths which the Constitution had conceded was abolished. One, Mr. Stearns of Massachusetts, later interviewed the President upon this petition, and thus learned some of Mr. Johnson's views on negro suffrage.

In this interview, the President advised less haste in making reforms. He much preferred that the South be given plenty of time to adjust itself to the new conditions with slavery abolished. To him the elective franchise was not a natural and inherent





right. It was rather political. He believed further, that the general Government had no right to control the privilege of voting in the States, but that on the other hand the States should be left to decide for themselves whether or not the negro should have any such privilege. These, in brief, were his general views regarding negro suffrage.

To this general rule there were exceptions which he would apply to some localities. In Tennessee, for example, where he was probably better acquainted with conditions than anywhere else, he would gradually introduce the colored ballot by about three methods. (1) It should be extended first to those who had served in the army. (2) Then by placing a premium upon such learning as the ability to read the Constitution and to write, it might be further extended. (3) A third method was by adding a property qualification similar to that which was so commonly in evidence in the earlier history of suffrage. The possession of about \$200 or \$250 in money, or equivalent value, might be required. Here were three methods of gradually extending enfranchisement in Tennessee.

It seems probably that the President might have favored extension just as gradually in the other States of the Union. He made statements which infer this. "It will not do," he said, "to let the negroes have universal suffrage now; it would breed a war of races." Yet as a theory applicable generally to the negro problem at that time, it seems that he did not favor free negro suffrage anywhere.

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1. Outlook Magazine January 13, 1906.

W. H. Smith: Political History of slavery Vol. II p 236.





The agitation for colored enfranchisement had grown so strong that the party was beginning to feel that some sort of open recognition of the movement should be made. Of course Johnson was not willing. But his numerous veto contests with Congress soon demonstrated that he was not a significant manager of the party. It very soon became evident that those who were in power had ideas concerning the immediate consideration of a negro suffrage policy.

In substance, four courses were open. (1) They could let the right of suffrage remain where it was, - exclusively in the whites; (2) Again, they might change that basis but still retain the distinction in some degree at least; greater or less, between white and black, - that is, leaving the right to be unequally exercised by the two races; (3) suffrage could be extended equally and universally to white and black; (4) and lastly they could outline a policy to extend suffrage equally and impartially to white and black with limitations and restrictions for the purpose of excluding improper persons.

The first condition was that which already existed, before any suffrage reform was attempted. It was deemed unsatisfactory. The restless conditions growing out of the incomprehensible negro status caused continual annoyance to the freed en sympathizers. Hence agitation for legislation on suffrage continued.

The attitude of Congress to the second and fourth plan will be shown when the arguments on the bill for negro suffrage in the District of Columbia are considered. The third plan, which was



always followed, will also be considered later.<sup>1</sup>

On December 4, 1865 Mr. Wade of Ohio introduced a bill to regulate the elective franchise in the District of Columbia. Each male person twenty-one years of age, a citizen of the United States and a resident of the District of Columbia for six months was to have the elective franchise without distinction of race, color or nationality. This was the first negro suffrage bill introduced that was destined to become a national law.

For a citizen, voting is an inalienable right. This is a natural law in a free republican commonwealth; for a man without a voice in the affairs of his State does not possess enough political liberty to be termed a citizen and a genuine free man. No man is free who is taxed without his consent. It is plainly an inherent right that a man, recognized as a free member of society, should exercise the right of suffrage according to the principle that governments attain all their just powers from the consent of the governed.<sup>2</sup>

However, there was a wide difference of opinion as regarding the idea that voting was an inherent right of citizenship. It will be recalled that President Johnson regarded it purely as a political right; and numerous others, observing the fact that women, minors and aliens are excluded from the polls without feeling the least suppressed or disgraced, felt that there was little

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1. Congressional Globe: Speech by Mr. Hale January 17, 1866.
2. J. G. Blaine: Twenty Years of Congress pp 175-200.





solid reasoning in the argument of inherent right.<sup>1</sup>

Again, to say a freedman should have a vote by virtue of the fact that he is a citizen, is not a reason why this bill should be supported. If that is true, this bill is not necessary. For if the negro by his present status is so clearly a United States citizen, and if it is equally true that citizenship and the right to vote are so intimately related, what necessitates such legislation as a bill to regulate the elective franchise in the District of Columbia? Even from the Suffragist's standpoint it should seem that such legislation was unnecessary.

It was alleged that to liberate the negro without granting any privileges was slavery in only another form. Or, as Mr. Julian put it, "An intelligent human being, absolutely subject to the Government under which he lives, answerable to it in his person and property for disobedience, and yet denied any political rights whatever is a slave. He may not wear the collar of any single owner, but he will be what Carl Schurz calls the 'slave of Society'.<sup>2</sup>" Suffrage is therefore necessary before the freedman can be relieved from his difficulties.

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1. Congressional Globe: Speech by Mr. Chanler January 12, 1866.  
Congressional Globe: Speech by Mr. Shellabarger April 21, 1866.
2. Congressional Globe: Speech by Mr. Julian January 16, 1866.





As in all previous contentions for other negro rights, the question of color was once more brought up. Some opponents of the bill declared that the negro already had been elevated beyond the plane his capacities would warrant. Others declared in turn that it was a case where prejudice was stronger than opinion, and consequently the idea of plain practical and political reason was entirely foregone.

Intellectual ability was opposed as a test for suffrage eligibility. Upon the basis of the same idea which Thomas Jefferson had, when he declared that "Whatever be their degree of talent, it is no measure of their rights", the enthusiasts for colored<sup>1</sup> enfranchisement opposed the test here. We do not apply such on the whites. The test as to the right to vote should be, "Is he a<sup>2</sup> man?" Some declared that it was safer for individual liberty to admit the ignorant to the polls, than it was to bar them. Thus education as a test received little favor.

The conservative members claimed that a negro thus clothed with political power would be dangerous. The Suffragists held this as an argument in their favor. Such reasoning is a confession of the negro's ability. When you say, for example, that you are afraid the next mayor of Washington will be a negro you<sup>2</sup> are confessing his superiority. If he will make a citizen so forcible as that, let us have him so.

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1. Congressional Globe: Speech by Mr. Julian January 16, 1866.
2. Congressional Globe: Speech by Mr. Farnsworth of Illinois,  
January 11, 1866.



The negro had been burdened with a citizen's obligations, yet he did not have the citizen's privileges. We owe them enfranchisement. We tax them; and from the time of emancipation we had been compelling them to bear arms and thus shoulder their proportional share of the burden in prosecuting the war. Through this means we gained 175,000 warriors. Many who had not enlisted directly as supporters of the Union cause nevertheless hailed the Union army as their deliverer, and offered such aid as they could give. In an official dispatch Secretary Seward said to Minister Adams, "Everywhere the American general receives his most useful and reliable information from the negro, who hails his coming as the harbinger of freedom." <sup>1</sup> As acknowledgment of the valiant service of negro soldiers this bill was alleged by some to be a debt which the Union well owed to the freedmen.

Again, it was truly declared that the negro had a right to vote in earlier times. Our observations on the early history of the colored man's voting power easily verify this. There is no acceptable reason why the privilege was taken away. The institution of slavery had smothered liberty. Now that slavery is suppressed let the negro once more return to the plane of a <sup>2</sup> citizen's rights. Such was the view of Mr. Julian.

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1. Congressional Globe: Speech by Mr. Grinnell January 12, 1866.
2. Congressional Globe: Speech by Mr. Julian January 16, 1866.





The same man further declared that Congress has embarked in despotism when it attempts to disfranchise a race. When it bars the negro today on account of race or color, it may disfranchise the Irishman tomorrow, and the German next day; and then perhaps the situation will have developed so that it can next strike down the laboring man. The right of denial would thus be unlimited. Yet it surely took as much power to give as it did to deny. Still this argument was advanced for suffrage.

The question of woman suffrage was brought up now and then. This proved so humorous at times that the Suffragists often were much embarrassed. However, a number apparently favored the extension of the franchise even to women. Others ridiculed the idea, or else declared that the time had not yet arrived for such a thing. The women leaders in the cause of woman suffrage were active.

They believed that the time had come when they might succeed in their petitions. Mr. Sumner was often approached with hopes that he might be enlisted to champion their cause. Upon such an occasion he once said, "That question (woman suffrage) I leave untouched, contenting myself with the remark that it is obviously the great question of the future, - at least one of the great questions, - which will be easily settled whenever the women in any considerable proportion insist that it shall be settled." Thus Sumner showed unwillingness to plead their cause.

question, - which will be easily settled whenever the women in any  
considerable proportion insist that it shall be settled." Thus  
Gunnar shows unwillingness to allow it to come.



Sumner had a pet argument by which he tried to enlist the Republicans as a party. If the Republicans enfranchised the negroes, the latter would always support the former in elections. This party had liberated the slaves at the sword's point. Now to clothe them with voting power would make the negroes feel bound to stand by their benefactors. This argument often sounded persuasive when others failed.

The question of State's rights was raised again. The Constitution reads, "The times, places and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may, at any time, by law make or alter such regulations, except as to the places of choosing Senators." There is nothing here tangible to the right of extending the franchise. The Suffragists find no authority for the powers which Congress must assume. The Constitutional clause, it was declared, read more favorably for State's rights than it did for Federal rights. It may thus be seen that as applying to the question at issue the language of the Constitution was just indefinite enough to allow opposite points of view.

There was abundant evidence that the States already had exercised the right. Upon numerous occasions they passed upon the question of negro suffrage just as deliberately as at former times, when they were separate Colonies. Instances after the Union was formed have been given. While the suffrage measure for the District of Columbia was under discussion the question became a

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1. Congressional Globe: Speech by Mr. Rogers January 11, 1866.



feature of party platforms in some States. In this way it was  
submitted for direct vote. Thus in Iowa the question alone was set  
before the people.<sup>2</sup> There it was decided in favor of the colored  
ballot by a majority of 16,000.<sup>3</sup> Since the rebellion broke out,  
Connecticut, Wisconsin, Minnesota, Nevada and Colorado had voted  
against negro suffrage. In New York the question had been voted on  
several times before a limited suffrage was finally granted.

However, the question had arisen sometime ago regarding a  
State's right to thus pass upon the matter. The Territory of Colo-  
rado which had no discriminatory election laws in 1861, passed a  
law restricting the right of ballot to the whites. Sumner opposed  
the admission of Colorado for this very reason. It is the duty of  
Congress to see that every State in the Union has a republican form  
of government; and it was claimed that a government which barred a  
portion of its citizens from the polls was not republican in form.  
The same argument had been applied to Nebraska.<sup>4</sup>

But it was declared unreasonable for a State's admission  
to be opposed on these grounds.<sup>5</sup> Congress had no right to interfere  
with the minutest legal details developed under the newly organized  
form.<sup>6</sup> There was sufficient precedent to establish belief that

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1. 1865.
2. Congressional Globe: Speech by Mr. Price January 15, 1866.
3. Congressional Globe: Speech by Mr. Morrill.
4. Congressional Globe: Speech by Mr. Sumner April 24, 1866.
5. Congressional Globe: Speech by Mr. Doolittle April 25, 1866.
6. Congressional Globe: Speech by Mr. Cresswell November 26, 1866.



these States should be permitted to decide for themselves who should be permitted to vote. Hence the objections of the suffragists<sup>1</sup> are unreasonable.

The outcome of the wrangle was in favor of the Suffragists. The right of fixing the status of elective franchise was thus taken by Congress. Henceforth the question of State's rights in this case declined. Nebraska was compelled to insert the principle of impartial suffrage, while Colorado was barred from admission. Johnson vetoed the bill for admission, but it was immediately<sup>1</sup> passed on a two-thirds vote. Thus Congress assumed a new power.

As the Suffragists won in the contest regarding Nebraska and Colorado, so they won in regard to the District of Columbia. Although the bill had passed both houses on the 13th and 14th of December 26, 1866, it did not get to the President until December 26, - six days after the adjournment of Congress for the Christmas vacation. After holding it until the 5th of January 1867, he returned it to the Senate with his veto. He did not dispute the constitutional power of Congress to establish negro suffrage. No State Legislature would think of enfranchising the negro without first obtaining the consent of that State's inhabitants. Congress bears the same relation to the District of Columbia that a State legislature bears to a State. Therefore Congress ought not impose such a measure upon the people without first obtaining their consent. He then called the attention of Congress to the will of

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1. W. H. Smith: A Political History of Slavery Vol. II p 304.







these people. In December, 1865, only one year before, a vote upon this very subject had been taken in the District. Out of a poll of 6,556, one of the largest votes ever polled in the city of Washington, only 35 voters expressed a willingness to tolerate negro suffrage. In Georgetown there was only one out of 813 ballots which favored colored enfranchisement. He declared the idea was premature. The colored inhabitants just had come out of a status signifying all the vice, ignorance, and other base characteristics<sup>1</sup> associated with slavery.<sup>2</sup> Yet Congress was determined in its course,<sup>3</sup> and passed the measure by a two-thirds vote.

It is interesting to note what was the attitude of Sumner towards this measure. Sometime earlier, he had introduced a bill providing that negro suffrage be universally tolerated throughout the United States. It was received with little enthusiasm. So when Mr. Wade introduced this bill, he opposed it on the ground that it was unreasonable in its jurisdiction. Such a position by the champion for colored rights was very oddly regarded by even his most intimate co-workers.<sup>4</sup> It is another illustration which Blaine probably had in mind when he criticised Sumner as a poor legislator.<sup>5</sup> Yet this was Sumner's position.

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1. MacDonald: Select Statutes of United States History p 154 note.
2. Burgess: Reconstruction and the Constitution pp 107-9.
3. January 8, 1867.
4. Wilson: Rise and Fall of the Slave power in America Vol.III  
p 678.
5. J. G. Blaine: Twenty Years of Congress Vol. II p 114.



The act as finally passed provided in short that "each and every male person, excepting paupers and persons under guardianship, of the age of twenty-one years and upwards, who has not been convicted of any infamous crime or offence, and excepting persons who have voluntarily given aid and comfort to the rebels in the late rebellion -----," may vote in the District of Columbia. It is noticeable that while this act enfranchised certain colored men, it also took pains to re-emphasize what previously had been resolved by Congress in other laws; namely, that those who had been in rebellion or any who aided were barred from the privileges of this bill. The effort of the act was to elevate the political status of the negro above that of numerous whites who had supported the Confederate cause. In another section of the act it was enacted that any person "whose duty it shall be to receive votes at any election within the District of Columbia, who shall wilfully refuse to receive, or who shall wilfully reject, the vote of any person entitled to such right under this act shall be liable to an action of tort by the person injured, and shall be liable, on indictment and conviction, if such act was done knowingly, to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding one year in the jail of said District or both.<sup>1</sup>" These were the important provisions of the act.

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1. U. S. Statutes at Large Vol. XIV -- 375-6.





It is important to notice that the order of extension of the suffrage privilege was about the same as was the order of extension of emancipation. It is remembered that the first emancipatory act passed concerned only the District of Columbia. But in course of time it was extended respectively to the Territories by a special act, to the rebellious States by the confiscation and other acts, and then to the whole United States by the Thirteenth Amendment. The first extension of suffrage by the national legislature applied to the District of Columbia. It was later extended to the Territories, then to rebellious States and finally to the entire United States in the same order as when emancipation was applied.

Be it recalled that on December 4, 1865 the bill for enfranchising the blacks in the District was introduced. In the Spring of the following year, (April 24, 1866.) James M. Ashley of Ohio introduced "a bill to amend the organic acts of the several Territories." And on January 31, 1867, the same month and year that Congress passed the act to regulate the elective franchise in the District of Columbia, the act regarding the Territories<sup>1</sup> became a law. It enacted "That from and after the passage of this act, there shall be no denial of the elective franchise in any of of the Territories of the United States, now, or hereafter to be

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1. MacDonald: Select Statutes of United States History Note p 155.



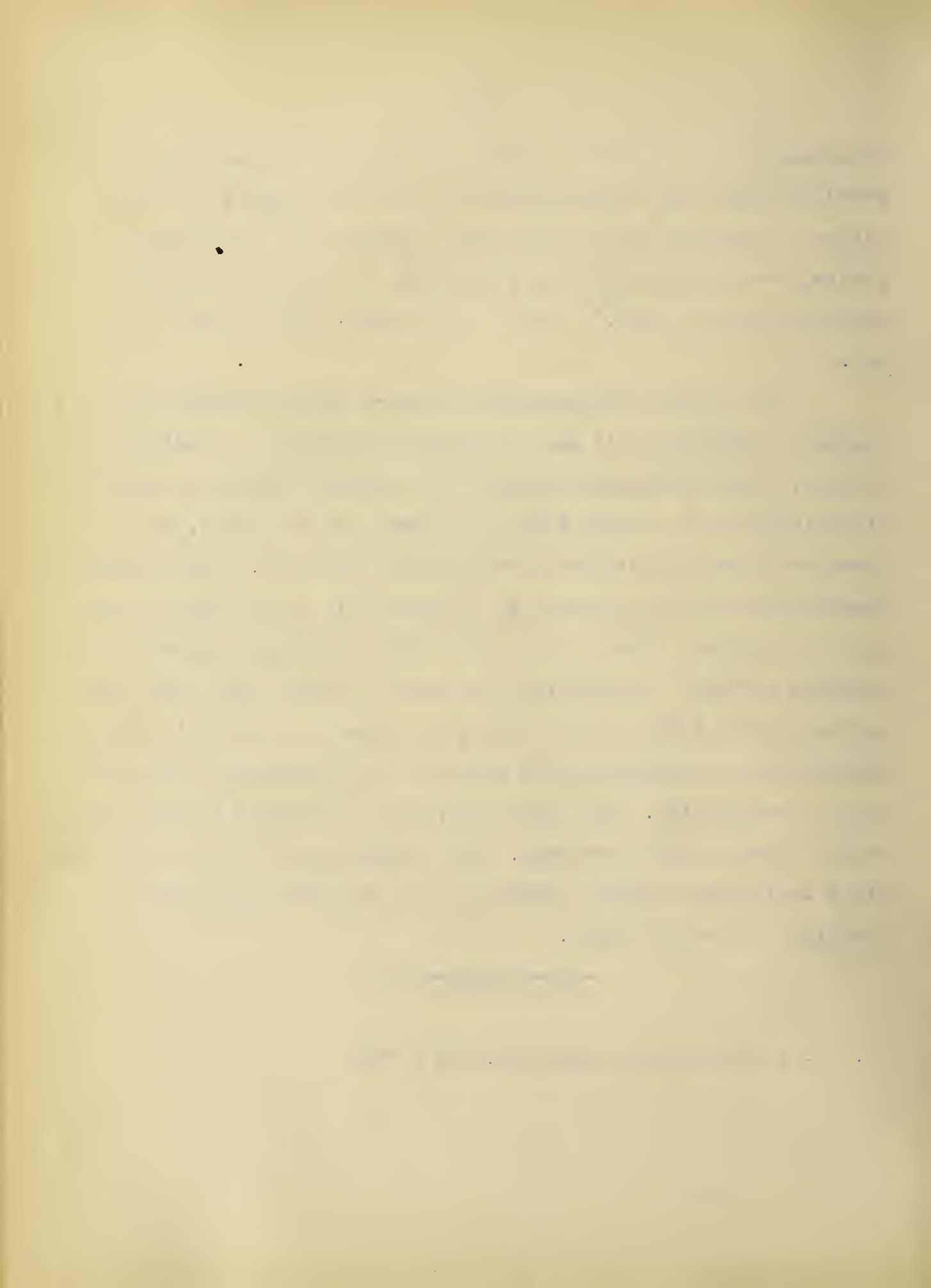


organized, to any citizen thereof, on account of race, color, or previous condition of servitude; and all acts or parts of acts, either of Congress or the Legislative Assemblies of said Territories, inconsistent with the provisions of this act are hereby declared null and void.<sup>1</sup> Such was the nature of the territorial act.

By the time the movement for negro enfranchisement had reached a point where it was no longer the policy of a radical element. Upon the consideration of the earlier efforts to accomplish legislation for the political benefit of the negro, the views were about as different as they were numerous. The extended discussions over the District of Columbia bill toned down the variance in opinion. Thus in the first work of national legislation on negro suffrage the difference of opinion within each party regarding the abilities of the negro, the question of State's rights, the powers of Congress and the policy of the Government were more or less conciliated. Of course the parties continued to hold opposite views on negro suffrage. Yet the history of this recent suffrage legislation clearly indicated that the Suffragists were wielding the greater power.

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1. U. S. Statutes at Large Vol. XIV p 379.



## VI Reconstruction and the Fourteenth Amendment.

The First Reconstruction Act, as it concerned the negro's right to vote, bore a very intimate relation to the Fourteenth Amendment; and the Fourteenth Amendment may be regarded as another important step toward the final constitutional triumph for colored rights, - the Fifteenth Amendment. Hence the First Reconstruction Act and the Fourteenth Amendment deserve especial attention before later triumphs of the Suffragists very wisely can be considered.

The status of the negro as yet was very unsatisfactory. True, his situation politically was not so perplexing as formerly. Yet Congress strongly felt the need of more constitutional power before it could legislate liberally for civil rights. There was also a growing desire to guarantee the financial integrity of the Government; for many feared some later assertions of State's rights might legalize debts incurred in opposition to the national authority. Again, the eagerness to attain things was more or less pricked on by the Suffragists who desired further opportunities to extend colored suffrage. The eagerness definitely to settle the matter of proportional representation might afford such an occasion. All these things together soon organized themselves into a movement toward at least one aim - another amendment to the Constitution of the United States.

It was clearly evident that the emancipation of slaves would increase the representation in Congress and in the electoral college from the old slave States by two-fifths when the South again would be recognized as a part of the Federal Union. This would be





a pure gain for the Southern whites; for the emancipated being barred from the polls the blacks would derive no benefit. Such an increase in southern representation might play havoc with all the laws Congress had enacted. Should there be a Democratic sweep in an election, and a conciliation between the northern and southern Democrats, the party in the ascendancy of power might proceed not only to repeal all acts in behalf of the freedmen, but as already hinted it might throw a portion or all of the Confederate debt upon the shoulders of the United States Government. It might pension the Confederate soldiers, or even go so far as to repudiate the debt which the Union had incurred in struggling<sup>1</sup> for its own existence. The extreme view thus set forth had a decided effect in urging an adjustment of the basis of representation.

Several different propositions to amend the Constitution had been offered in both the House and Senate during the first<sup>2</sup> session of the thirty-ninth Congress. Thaddeus Stevens of the Committee on Reconstruction introduced a joint resolution embodying in substance what afterward became the Fourteenth Amendment. This was reported at the same time with a bill for admission to representation of certain States ratifying the same. So was launched the nucleus of another constitutional modification.

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1. Burgess: Reconstruction and the Constitution p 75.
2. McPherson: Reconstruction p 103.

MacDonald: Select Statutes of United States History note  
pp 208-9.





However, the provisions as first introduced seemed faulty. They were not definite in saying who were the citizens of the United States; and there were numerous other objections which pertained rather to questions foreign to this subject. Heretofore the State's rights champions insisted that one must first be a citizen of a State before he would be considered a citizen of the United States. But the final draft of the Amendment expressly provided that "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." Section three of a former draft denied suffrage to all persons who had given aid voluntarily to the rebellion. But this was substituted by a new provision which made the Confederate leaders ineligible to office, and permitted suffrage among the rank and file. Other changes were made, but these are all that need be considered here.

The opponents of this measure insisted that there was no necessity for any such amendment. Again, the South for lack of congressional representation is barred from passing upon it. Hence to pass such a resolution now, even though it were necessary would make the act appear decidedly revolutionary.

Furthermore, the character of the whole Amendment is such as to bestow legal rights of citizenship on the negroes; while a large number of whites are debarred from similar privileges. It was held to be a trade between a number of certain whites and the negroes for a status of semi-slavery. As one Congressman declared, it, "enables congress to make a negro of a white man and a white man of a negro, or what is worse, to make a negro superior to a



white man; for all negroes may hold office while all white men may not."

Again, the Federal legislature was encroaching upon the rights of the States. This was the chief reason for the opposition of Mr. Boyer of Pennsylvania.<sup>1</sup> Previously it was a settled interpretation of the Constitution that the protection of the life and property of private citizens within the States belonged exclusively to the State Governments. But now upon constitutional grounds Congress will be able to mingle in a State's private affairs.

An inconsistency was shown to exist in the policy of the Suffragists when they supported this measure. It was declared that the Fourteenth Amendment tacitly recognized the rights of the States to disfranchise the ex-slaves, should they so elect. True, they could not do it without sacrificing so much representation in Congress.<sup>2</sup> Yet if they were willing to make that sacrifice there was nothing in the Amendment to prevent such discrimination. The policy of the Suffragists was nevertheless declared to be inconsistent.<sup>3</sup>

Senator Fessenden of Maine ably met the argument of discrimination against the blacks. The southern States, he declared, should feel that they could derive larger political power in the government of the United States by admitting colored men to the

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1. Dunning: Essays on the Civil War and Reconstruction.
2. Wilson: Rise and Fall of the Slave Power in America Vol.III p661
3. Wilson: Rise and Fall of the Slave Power in America Vol.III p661





elective franchise. With that aim in mind, their interest in the race would increase enough for them to extend protection to the while population. Hence if the South pursues a wise policy it will not discriminate against the blacks.

Mr. Sumner was very eager to improve on the situation by making suffrage a striking feature of the Amendment. He made a long speech filling forty-one columns in the Congressional Globe. It contained an extensive historical review of the foundation of the republics of the world, and exhaustively explained what constituted a republic. It closed with an eloquent plea for the ballot of the freedmen. He demanded "enfranchisement for the sake of public security and public faith." He pleaded for the ballot as a "great guarantee" "a peacemaker", "a schoolmaster", "a protector". Taking the speech in all Mr. Blaine speaks of it as "an exhaustive and masterly essay, unfolding and illustrating the doctrine of human rights. As such it remains a treatise of great value; but as a political argument calculated to shape and determine the legislation of Congress, it was singularly inapt." Though Mr. Sumner's views may not have been convincing, he did what he could to further extend the negro's right of ballot.

Since Congress had suffered much opposition by President Johnson upon previous enactments, it anticipated opposition upon this measure. However, the resolution had been passed by a two-thirds vote. Hence Mr. Johnson did not have an opportunity to

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make himself felt officially in regard to this action of Congress. It was well understood that he did not view it with favor while it was pending. He soon was advising the "States" to reject the proposition. Thus the suspicions of Congress were verified.

By the opposition displayed on all sides Congress soon realized that the Amendment would be ratified with difficulty. Hence some stimulus, as had been expected, was necessary.

Such force could be added through a reconstruction act. By inserting a provision for negro enfranchisement in the act, the entire South could be enlisted for the Amendment. While such a scheme had been gaining ground in recent years, it generally was spurned by the reconstructionists. Lincoln did not have such a thing as negro suffrage in his plan of reconstruction; and Johnson's position practically was the same. Even Mr. Wade who introduced the bill for enfranchising the negroes in the District of Columbia had nothing of negro suffrage in his reconstruction theories. The reorganization of the "States" was considered as something to be accomplished by itself. Hence to accomplish ratification by such means seemed undesirable.

Sumner had not made any extensive speech on negro suffrage as a feature of reconstruction. He recognized the difficulty of saying something that would not be misinterpreted. But in a letter <sup>to</sup> John Fright he wrote: "I insist that the rebel States shall not come back except on the footing of the Declaration of Independence, with all persons equal before the law and governments founded on the consent of the governed. In other words,



there shall be no discrimination on account of color. If all whites vote, then must all blacks; but there shall be no limitation of suffrage for one more than the other." As Sumner insisted upon negro enfranchisement as a condition upon which Nebraska and Colorado should be admitted, so he demanded it as a condition for the restoration of the "States". Thaddeus Stevens was of the same attitude. Yet until now these views were not seriously considered.<sup>1</sup>

The Amendment contained provisions concerning a number of dissimilar subjects. Many States favored some parts and opposed others. Therefore it was suggested that the Amendment be separated into as many amendments as it had subjects. It had been done so in regard to the first twelve Amendments of the Constitution. Congress did not feel inclined to do this, because it would afford too good an opportunity to reject certain parts which were so much desired. Yet the awkward unity of the Amendment was destined to bring trouble.

To the embarrassment of Congress the Amendment was rejected not only by such rebellious States as Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana and Texas, but also by Delaware, Maryland and Kentucky. In New Jersey and Ohio, where the legislatures had ratified it, later legislatures rescinded it. The year 1866, regardless of the fact that it was not the year of a presidential election, marked the time of a most enthusiastic political contest. So bitter was the

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1. Sumner's Works: Vol. XIII pp 303-30.





opposition to the general policy of Congress that the Republican party had a hard battle for power. However, the result was a Republican victory, and hence there yet was hope for changing the<sup>1</sup> embarrassing situation.

The marked opposition demanded immediate consideration. There were two ways by which Congress could accomplish the ratification of the Amendment. (1) It could require that no State be reconstructed unless it ratified the Fourteenth Amendment. (2) Again, it could clothe the negro with suffrage powers. In course of time this latter method was especially used as a way out of the perplexity.

On March 2, 1866 a concurrent resolution upon reconstruction was introduced. This was followed by several other bills and amendments upon the same subject. Among them was a bill<sup>2</sup> by Thaddeus Stevens on the reconstruction of North Carolina. On February 6, 1867 Stevens reported from the Joint Committee a general reconstruction bill. However, a substitute offered by Stevens was agreed to on February 13, and was passed by the House. Then James G. Blaine of Maine submitted an amendment, providing that when Congress should have approved the Constitution of any State conferring suffrage in accordance with the Fourteenth Amendment, the other sections should become inoperative. However, this

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1. MacDonald: Select Statutes of United States History 1861-98  
Burgess: Reconstruction and the Constitution pp 103-4. <sup>p 208 note.</sup>
2. December 13, 1866.



was rejected. In the meantime the Fourteenth Amendment had been rejected by all the seceding States except Tennessee. Later, the 16th, the Blaine amendment, which was offered in the Senate by Sherman, passed the Upper House. On the 20th the House reversed its former vote on the amendments, and admitted the suffrage clause.<sup>1</sup> So was the bill shaped.

This First Reconstruction Act was a very severe measure. By its provisions the commanders of the military divisions might use the civil courts to enforce the laws if they saw fit, and if these were not effective they might govern through military power. Professor Burgess says that "There was hardly a line in the entire bill which would stand the test of the Constitution. The South was past the condition requiring martial law; and martial law was prohibited except in cases where there is armed resistance to the Execution of the laws of the United States. There were cases where resistance was yet more or less formidable, yet "No sane and just mind" says Professor Burgess, "can consider such a ground as sufficient in policy, morals or constitutional law." While the people of the rebel districts forfeited their rights to the "State" form of local government, after they had given up resistance to the United States Government they still had the rights guaranteed to the criminal by the Constitution of the United States. They had a right to be presented by a grand jury and tried by a petit jury in the civil tribunals of the United States, by due process of law regard-

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1. McPherson: Reconstruction -- 109-114 also pp 183-187.





less of what the crime might be. Congress also infringed upon the constitutional rights of the President by assuming the commander-in-chiefship over the army. Other instances might be cited in proof toward Professor Burgess's statement that "the bill was the most brutal proposition ever introduced into the Congress of the United States by a responsible committee."

Section 5 of the bill has a most important bearing under  
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our subject. It provided, among other things, "That when the people of any one of said rebel States shall have formed a Constitution of Government in conformity with the Constitution of the United States in all respects, framed by a convention of delegates elected by the male citizens of said State, twenty-one years old and upward, of whatever race, color, or previous condition, who have been resident in said State for one year previous to the day of such election, except such as may be disfranchised for participation in the rebellion or for felony at common law, and when such Constitution shall provide that the elective franchise shall be enjoyed by all such persons as have the qualifications herein stated ----- then and there after the preceding sections of this act shall be inoperative in said State". This was the important suffrage clause of the act.

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1. See U. S. Statutes at Large Vol. XIV pp 428-9.





President Johnson vetoed the bill on March 2, but on the same day Congress repassed it over his veto. As a further safeguard over the policy thus agreed upon, Congress, by a joint resolution<sup>1</sup> appropriated \$500,000 for the expenses of executing the various reconstruction acts. So was developed a means of working<sup>2</sup> out a way for the ratification of the Fourteenth Amendment.

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1. March 30, 1867.

2. McPherson: Reconstruction p. 109-114.

Richardson: Messages and Papers of the Presidents Vol. VI  
pp 527-531.  
Senate Executive Document 14, Fortieth Congress.

Dunning: Essays on the Civil War and Reconstruction pp 136-252.

Morse: Lincoln Vol. II Chapter VIII.

Hart: Chase Chapter III.

Storey: Sumner, Chapters XVI, XVIII.

McCall: Stevens, Chapter XVI.

Cox: Three Decades, Chapters XIX - XXIII.

Blaine: Twenty Years of Congress Vol. II Chapters III - XII.



The freedman now was clothed with the power to vote and sit as a delegate in a convention to ratify an amendment meant especially to confer upon him the privileges therein mentioned. This seems rather odd as a congressional means. It might be stated in passing that the freedman had a similar opportunity to thus confer political benefits upon himself when the Fifteenth Amendment was submitted for ratification. Such was the nature of the advantages gained by Congress in forcing its policy, and by the negro incidentally in gaining political elevation.

The moment the ex-slave was given the right to vote, another hardship was forced upon the South. They were enraged not only because many whites were barred from voting and other privileges of citizenship, but also because they were forced to endure lavish expenditures by colored legislatures in reckless appropriations of money. This developed an enormous increase of the southern debts. The negroes were the tools of designing whites. Through the rigid enforcement of suffrage rights by the Federal power, some of the war States like Virginia were forced to suffer most burdensome debts<sup>1</sup> as the outcome of foolhardy legislation.

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1. McCullough: Men and Manners of half a Century.





Under the Reconstruction act, Alabama in 1867, North Carolina, South Carolina, Georgia, Florida, Mississippi, Louisiana, Texas and Arkansas in 1868, held conventions. For the first time in the history of the southern States, negroes sat in the same legislative halls with white men for the purpose of passing laws.

On July 20, 1868 a proclamation by Seward announced that the Amendment had been ratified by the legislatures of twenty-three States, and by "newly constituted and newly established bodies avowing themselves to be and acting as legislatures of North Carolina, South Carolina, Florida, Alabama, Louisiana, and Arkansas". He announced further that if the ratifications of New Jersey and Ohio be deemed as remaining of full force and effect, the Amendment was in force. Thereupon Congress by the resolution of July 21, declared the Amendment to be in force and directed its promulgation as such. Accordingly the final proclamation declaring the Fourteenth Amendment to be in full force and effect was issued July 28, 1868.



## VII The Fifteenth Amendment.

The broadest suffrage measure yet executed was the First Reconstruction Act. Still, this was applicable only to the so-called Confederate States. The Fourteenth Amendment only negatively aided the negro in securing the right of suffrage by laying the penalty of a decreased representation upon any State that should deny or abridge his right to vote. As time went on it was therefore<sup>1</sup> deemed expedient to guarantee the franchise to the freedmen.

After the extension of suffrage by the First Reconstruction act, agitation for universal suffrage became especially noticeable. Mr. Sumner wrote from the Senate Chamber April 20, 1867 to the editor of the Independent, that there was no material reason why negroes should vote in the South and not in the North. The rule of justice is the same for both. Their votes are needed at the North as well as at the South. There are northern States where their votes can make the good cause safe beyond question. There are other States where their votes will be like the last preponderant weight in the balance of power. Let our colored fellow citizens vote in Maryland, and that State now so severely tried will be fixed for human rights forever. "You need votes in Connecticut do you not? There are 300 fellow-citizens in that State ready at the call of Congress to take their place at the ballot box. You

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1. H. V. Ames: Proposed Amendments to the Constitution 1789-1889.





need them also in Pennsylvania, do you not? There are at least 15,000 in that great State waiting for your summons. Wherever you most need them, there they are; and be assured they will all<sup>1</sup> vote for those who stand by them in the assertion of Equal rights." This was an early argument for universal suffrage by Sumner. After 1868 individual localities as well as Congress gave attention to citizen's rights other than voting. Iowa, for example, soon struck<sup>2</sup> the word "white" from its Constitution. A bill to give equal political rights, regardless of color, to persons in the District<sup>3</sup> of Columbia had been passed also. Yet this regards privileges other than rights of suffrage.

Just a little more than a week before the first action regarding a joint resolution for a new amendment by either house as a body, Mr. Wilson made a speech on a suffrage amendment.<sup>4</sup> He said, "We, the friends of human rights, simply propose to submit to our countrymen an amendment to the Constitution of our country to secure the priceless boon of suffrage to citizens of the United States to whom the right to vote and be voted for is denied by the Constitutions and laws of some of the States. This effort to remove the disabilities of the emancipated victims of the perished slave systems, to clothe them with power to maintain the dignity of man-

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1. Sumner's Works Vol. XIII p 52.
2. Congressional Globe: Speech by Mr. Loughridge January 29, 1869.
3. United States Statutes at Large Vol. XVI p 3.
4. Congressional Globe: Speech by Wilson February 8, 1869.





hood and the honor and rights of citizenship, spring from our love of freedom, our sense of justice, our reverence of human nature and our recognition of the fatherhood of God and the brotherhood of man." These were reasons which Wilson offered for a new amendment.

Sumner argued for colored voting rights on the basis of the Fourteenth Amendment. Was it not decided in the famous Dred Scott case that when a man was once a citizen he was entitled to all the privileges of citizenship? In the famous opinion there handed down, Chief Justice Toney said that if a negro "were once a citizen, that is, if he were once admitted to be a component part of the body politic, he would be entitled to the equal privileges of citizenship." Since then the Fourteenth Amendment has made the freedmen citizens by the words, "No state shall make or enforce any law which shall abridge the privilege of immunities of citizenship." This clause empowers Congress to enforce the rights of a citizen. Is that not sufficient? What amendment can you invent that will give Congress more power than it has there? Mr. Howard who had been Chairman of the Reconstruction Committee that passed the Fourteenth Amendment, declared that this was a wrong interpretation of the clause. That clause referred to the privileges and immunities of naturalized citizens of the United States, it was claimed. Sumner insisted, however, that Senator Howard was wrong; that Senator Yates from Illinois had united and defeated, just before this, an amendment which delegated to the States the right to discriminate in race suffrage. In the Four-



teenth Amendment had been supposed to be of the same spirit of the defeated amendment, surely it never would have passed. By this means of interpretation he held that the Constitution already clothed the negro with suffrage power.

Yet there were a great many negro-Suffragists who strongly doubted the power of Congress to pass upon the matter of enfranchisement. Then, too, as long as there was no perpetuation by constitutional amendment, the possibility of repeal was strong enough to make some fear that later the suffrage legislation might be wiped off the statute books. A hostile party upon gaining power could easily do it. The drastic measures by which the first war State was restored to the union is clear evidence of the little confidence the Suffragists had in the permanency of their work.<sup>1</sup> These were reasons why they desired another amendment.

In reply it was said that history showed an amendment to be unnecessary. Notice the work of emancipation accomplished before an amendment was granted; and yet the repeal of the early abolition laws was never suggested. The same can be said of the suffrage laws. Practically, they are as firmly established as if they were made a part of the Constitution.<sup>2</sup> No observance seemed to be made of the fact that from the beginning only one party had been in power. Hence for the time it stood as a reply to the argument.

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1. Dunning: Essays on the Civil War and Reconstruction p 213.
2. Congressional Globe: Speech by Mr. Williams February 5, 1869.





Most of the State's rights arguments which were brought up here, were similar to those given on previous bills and amendments.<sup>1</sup> However, a new question of State's rights came up on the power of fixing qualifications. In thus considering the proposed Amendment Mr. Elridge of Wisconsin said, "The main feature and purpose of the bill are to take from the States the right to determine the qualification of voters." Now Mr. Boutwell believed that each State had the power absolutely to fix the qualifications of Electors of the most numerous branch of <sup>the</sup> Legislature. But he thought that the matter in the Constitution did not give the States power to fix the qualifications of voters. In his view this part of the Constitution took power from neither the States nor the United States.<sup>2</sup> This represents only one phase of the discussion on qualifications.

The question, what is a qualification, naturally came up in this connection. It will be noticed that this is the argument of 'color' which appeared in earlier debates. The only difference<sup>3</sup> is that it is referred to here as a qualification. "A qualification",<sup>3</sup> said Mr. Sumner, "is something that can be acquired. A man is familiarly said to qualify for an office. Nothing can be a 'qualification' which is not in its nature attainable, - as resi-

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2. Congressional Globe: Speech by Mr. Boutwell January 23, 1869.
3. Sumner's Works Vol. XIII p 40.

Congressional Globe: Speech by Sumner February 5, 1869.



dence, property, education, or character, each of which is within the possible reach of well|directed effort. Color cannot be a 'qualification'. If the prescribed 'qualification' were color of the hair or color of the eyes, all would see its absurdity; but it is none the less absurd, when it is color of the skin. ----- Color is a quality from Nature. But quality is very different from qualification. A quality inherent in man and part of himself can never be a 'qualification' in the sense of the National Constitution. The meaning otherwise brought on is repugnant to reason, justice, and common sense". Such was Sumner's conception of qualification as referred to in the Constitution.

Likewise, there was more or less difference of opinion regarding the definite meaning of the words "mode, method, manner." Men like Mr. Boutwell of Massachusetts had a broad conception of what the words indicated. He believed in the words of Patrick Henry who said, "It includes, as I maintain, everything relating to an election, from the qualification of the electors to the deposit of the ballot in the box." Others, however, placed a narrower construction upon the words.<sup>1</sup>

It was also asked whether a State had the power to 'regulate' suffrage. Some, especially the State's Rights champi-

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1. Congressional Globe: Speech by Mr. Boutwell December 7, 1868. Annual Cyclopedia for the year 1869 p 121.





ons, held that it did. Yet Sumner and others declared that the Constitution allowed the States no such privilege. "I go into the question of the meaning of the Constitution of the United States", he said "and I insist that under that you cannot without falsifying every rule of interpretation which will be found in any book of jurisprudence, every sentiment of the heart, say that under the power to regulate you can disfranchise a race. Every presumption is to be in favor of human rights. ----- In every interpretation of the Constitution, in the construction of every word and phrase in it, I give to it a meaning of human rights; and when I am asked what is meant by the term 'to regulate', I say to determine the manner of elections, not to disfranchise a race." This argument may illustrate the logic by which the State's Rights theories were opposed.

Doubtless, the quotations from Sumner's speeches as well as his views herein substantially presented have long since suggested sentimentality. Very many of his arguments were based entirely upon theories surrounding the inherent and natural rights of man as defined in the Magna Charta, the Declaration of Independence, and the like. While it was very proper that these thoughts should be emphasized as the gist of the demands, the in-

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1. Annual Cyclopedia for 1869 p 145.

Sumner's Works Vol. XIII pp 34-52.





tangibility of the arguments often afforded reason for their being disregarded by the opponents of Sumner.

Mr. Fessenden, who many looked upon as the best debater in the Senate, appeared to be more practical in his views. He tried to show how political equality would not only be to the best interests of the negroes, but to the whites who dwelt among the numerous blacks. He emphasized inherent rights less strongly. In distinction from Sumner's line of argument he declared that taxation and representation did not go together. His reasons were the same as those already given. But he claimed that so much power bestowed upon the negro, meant a proportional increase of the political power of a district compared with other districts of the United States. Such was Fessenden's scheme of reasoning.<sup>1</sup>

Mr. Cox of Ohio represented a faction which considered universal suffrage inexpedient. He admitted that Congress had the right to enfranchise the colored race. Yet with the same conservative spirit that he had shown toward other measures for colored rights,<sup>2</sup> he insisted that such a policy was decidedly unwise.

Strange as it may seem, Chase who had long been known as a radical advocate of negro enfranchisement, disliked some of the things which a suffrage amendment implied. This may best be understood when one observes what he wrote to a friend on April 3, 1869.

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1. J. G. Blaine: Twenty Years of Congress Vol. II p 202.
2. Wilson: Rise and Fall of the Slave Power in America Vol. III pp 274-5.



"After the Fourteenth Amendment was adopted, I thought the suffrage should be left to the States after restoration, and I still think so. Centralization and consolidation have gone far enough and too far. As yet, inasmuch as the proposed Fifteenth Amendment does not prevent the States from imposing suitable qualifications, if qualifications should be found necessary, I incline to wish that it may be ratified. I should have no reservation in that wish if the clause giving Congress power to legislate were left out. I want as little legislation by Congress in respect to the internal concerns of the States as possible." It might be stated, however, that in time he came to support the Amendment heartily, and did what he could to persuade the Ohio State legislature to ratify it. So Chase did not appreciate all the demands which a majority of the Suffragists were making. Yet he came to ratify them as they were accomplished.<sup>1</sup>

Objection was raised against the effect universal suffrage would have on social intercourse between the two races. But Mr. Blackburn, representative of Louisiana held a very opposite view. He declared that since the negro had been enfranchised in the South the personal equality and social intercourse between the

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1. Hart: Chase pp 371-2.





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races were less there than in the days of slavery. Mr. Flack-  
burn's observations told him that negro suffrage would not create  
any detrimental social mixture of the races.

Another argument against enfranchisement was taken upon  
the history of negro suffrage as recorded in the past few years.  
It was claimed that since the blacks have been liberated from the  
shackles of slavery, where they had always been the tools of their  
masters even against their own will, they have become intoxicated  
by the right of ballot. Now, in their ignorance and mad enthusi-  
asm they are cheated into the service of the Carpet-baggers, who  
use them as tools just as freely as in the former days of slavery.  
Hence, after all, negro suffrage is not a liberation. It is a new  
kind of servitude. The reckless legislation and lavish expendi-  
tures already mentioned, show what a negro regime would mean. When  
negro suffrage becomes universal, the breadth of these disasters  
will be proportionally increased. Thus history was held to oppose  
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the scheme.

Congress was charged with going contrary to what it had  
promised impliedly and expressly when its members stood for uni-  
versal suffrage. Especial care was taken, it is said, to submit  
the Amendment to the States after the presidential election. When  
the nominating Convention sat in Chicago, the Republican party  
promised the people that no such amendment should be proposed.

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1. Congressional Globe: Speech by W. J. Blackburn January 30, 1869
2. McCullough: Men and Measures of half of Century.  
Political Science Quarterly: Vol. IX pp 671-704.



The party declared emphatically that while Congress had the right to regulate suffrage in the lately revolting States, the other States should have the power to regulate suffrage for themselves.<sup>1</sup> Now it was charged that this was a party trick to gain both the<sup>2</sup> election and the Amendment.

It was claimed that many Congressmen voted for the Amendment directly contrary to the wish of the people whom they represented. The two Missouri Senators preceding Mr. Blair lost their office by virtue of such a practice. Missouri had voted down negro suffrage by 30,000 majority. Yet the legislature elected by that very vote ratified the amendment.

The same thing came to pass in other States. It happened so in Kansas where, in the election preceding, negro suffrage had been defeated by 15,000 majority. In the State of Ohio the majority against negro suffrage was 50,000; and yet her Republican Senators, Representatives, and her Republican legislature promptly disregarded the public will by proposing and ratifying the Amendment. In Michigan the people refused to give negroes suffrage by a majority of 34,000. Her Senators and Representatives, disregarding the wishes of their people, hastened to pass the laws which the public just had voted against. There were New York, Connecticut,

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1. Annual Encyclopedia for 1868 p 744.
2. Dunning: Essays on the Civil War and Reconstruction pp 225-230  
Congressional Globe: Speech by Mr. Blair February 15, 1871.





New Jersey, in fact nearly all the Northern States aside from New England, who by the ballot of the people had shown unwillingness to elevate the political status of the negro. Yet the Congressmen appeared to go against the express will of those whom they represented.

This not only showed the opposition of the public will to the idea of universal suffrage, but it also illustrated a shameful abuse of "the consent of the governed" which principle of human rights the Suffragists so eloquently set forth. This may be well explained in the words of Senator Blair of Missouri. "The very gentlemen", he said, "who claim the ballot is necessary to protect the negro, who attach such immense importance to the ballot, when the ballot has been exercised by their own constituents adverse to their wishes and party interests, disregard it as if it were no more than waste paper."<sup>1</sup>

The Amendment received the necessary two-thirds vote in both houses, and was proposed February 26, 1869. Tennessee did not pass upon it. But California, Delaware, Kentucky, Maryland, New Jersey and Oregon rejected it. New York first ratified it and then repealed the ratification. Finally it was ratified by twenty-nine<sup>2</sup> States, and declared in force (March 30, 1870).

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1. Congressional Globe: Speech by F. P. Blair February 15, 1871.
2. Sherman: Recollections of Forty Years in the House Vol. I p 450  
McPherson: Reconstruction p 399.





President Grant in announcing its ratification to Congress spoke of it as "a measure which makes at once four million people voters." However, this was not the case. The negro had been a voter in the South since 1867. His voting had been one of the preliminaries by which an insurrectionary State was restored to the Union.

Sumner had been eager that universal suffrage should be accomplished by some means other than that of a constitutional amendment. Suppose the States would fail to ratify the amendment. All would then be permanently lost. He looked upon it as a risk which should not be run. He believed that negro enfranchisement should be gained rather through legislation based on the constitutional rights which already existed. Yet now, since the danger was<sup>1</sup> past, he heartily rejoiced that so much had been accomplished.

After the Amendment came into full force, there was occasion for the Judiciary to say what it suggested. The personal reasons for its existence are (1) the benefit of franchise in that it gives importance, respect and protection against unfriendly action or legislation; and (2) its existence as an educational process of highest importance to the negroes, inciting them to become good citizens.<sup>2</sup> To these Judge Cooley adds: (1) By putting

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1. Sumner's Works Vol. XIII Speech on Ratification of XV Amendment.
2. Opinion of Justice Hunt in U. S. Vs Reese 92 U. S. 214, 217.



the ballot into the hands of the ex-slaves, the southern Government kept those in rebellion from ministering power of immediate opposition again. (2) It eliminated what always would have been a stigma and a disgrace as well as the cause of occasional discontent, disorder and danger.<sup>1</sup> This, in brief, shows the judicial conception of the new amendment.

Thus we find the suffrage policy developed. At the beginning of the war it was strongly asserted that the institution of slavery would not be bothered.<sup>2</sup> Then came sectional compensated emancipation. The policy of abolition was finally extended until there was universal liberation without any compensation at all. Soon after, another constitutional Amendment fixing the negro status at citizenship was added. Then, in the manner as set forth, all citizens regardless of race, color or previous condition of servitude were given the right to vote.<sup>3</sup>

In contrasting the early with the later policy of the Republican party, the question is often raised whether it would have embarked on such a policy on its own notion. Of course the radicals had much influence. But the South had been so violent through counteracting legislation and other movements that many blamed the "States" entirely.

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1. Cooley: Principles of Constitutional Law, pp 264-5.
2. First inaugural address by Lincoln.
3. Burgess: Reconstruction and the Constitution, pp 220-1.





This spirit of opposition was gradually suppressed, although it continued until after the time to be considered in this paper. Even after the South had been completely subdued, Ku Klux Klans and other societies did all they could to keep up the spirit of opposition against the North and the blacks.

The Ku Klux Klan came to be in evidence as early as when the District of Columbia suffrage act was passed. It soon developed into a powerful organization. Ku Klux Klan was only one of<sup>1</sup> the various names under which it went. The body consisted of bands of disciplined, well equipped, and usually disguised men. Many of them were highly respected southern citizens and mostly soldiers of the rebel army. These bands carried on their practices in at least eleven of the States. About 550,000 men thus organized were said to be under the head of General Forrest. This, in brief, is the<sup>2</sup> nature of the organization.

Although they worked in secret, they claimed to have a good reason for their policy. They blamed the carpet-bag Government for it all. The officers were charged with holding office by unfair elections. They would get regiments of armed negroes to turn out and superintend the elections. This made the whites feel justified

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1. Congressional Globe: Speech by J. W. Johnston April 11, 1871.
2. Garner: Reconstruction in Mississippi.



in organizing some forcible means by which they might regain their<sup>1</sup>  
rights over the Negro regime.

The North, however, viewed this clanism from a different standpoint. There were long lists of outrages where in nearly every case a man was flogged, while others were robbed, shot, hung or drowned. In some localities only white men together with their wives and daughters were put through most outrageous ordeals, all of which by the nature of the crime as well as the persons assaulted afforded no excuse for either the organization or its<sup>2</sup>  
practices.

These conditions here as briefly set forth may help to explain why there was more legislation to follow. The movement of opposition on the part of the South made the northern legislators feel uneasy about their effects being permanent. Hence there was more legislation under titles like, "An Act to enforce the Fifteenth<sup>3</sup>  
Amendment", and "An Act to enforce the Fourteenth Amendment."

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1. Congressional Globe: Speech by J. E. Stevenson April 4, 1871.  
Congressional Globe: Speech by Mr. Blair May 20, 1872.
2. Congressional Globe: Speech by Mr. Williams April 5, 1871.  
Congressional Globe: Speech by Mr. Mercer April 6, 1871.  
Congressional Globe: Speech by A. J. Bareman April 13, 1871.  
Congressional Globe: Speech by Mr. Marton April 4, 1871.  
Congressional Globe: Speech by Mr. Barry April 5, 1871.  
Congressional Globe: Speech by Mr. Wilson April 13, 1871.
3. U. S. Statutes at Large Vol. XVI pp 140-146.





When Sumner made a speech to the citizens of Washington on the ratification of the Amendment, he spoke rather upon what remained to be done.<sup>1</sup> There were numerous other rights of citizenship still to be enforced. These enforcements came to be realized in the Naturalization act<sup>2</sup> (of July 14, 1870) and the Civil Rights act of 1875.<sup>3</sup> Thus equal human rights were gained. This marks the result of a great movement of which negro suffrage was only a feature.

After the ratification of the Fifteenth Amendment, strong symptoms of radicalism were everywhere apparent. Men like Sumner were able to say, that in spite of their denunciations of his doctrine the party had always come to embrace his principles. It could not be denied. Now, after sweeping changes had been made for the blacks the movement continued more radical than ever before.<sup>4</sup>

Such, in brief, is the history of suffrage from the beginning of the Nation. It was a privilege in some places in early times. Later Slavery reigned at the expense of the negro's right to vote. Then came the wave of liberation which did not pause in its tendency toward radicalism until colored enfranchisement was universally accomplished.

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1. Sumner's Works: Vol. XIII pp 350-351.
2. U. S. Statutes at Large Vol. XVI pp 254-256.
3. Hoar: Autobiography of Seventy Years.  
U. S. Statutes of Large Vol. XVIII pp 335-337.
4. Blaine: Twenty Years of Congress Vol. II p 670.





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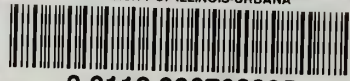








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